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THE SITUATION IN THE OCCUPIED TERRITORIES OF CROATIA

Letter dated 15 December 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to write to you, upon instructions of my Government, concerning General Assembly resolution 49/43, adopted on 9 December 1994.

The Government of the Federal Republic of Yugoslavia has already advanced its positions on this question during its consideration in the Special Political and Decolonization Committee (Fourth Committee) (document A/C.4/49/9 of 18 October 1994).

On this occasion, the Government of the Federal Republic of Yugoslavia would like to point out the following:

(a) The initiative of Croatia to have this item considered and the resolution adopted by the General Assembly are in contravention of Article 12 of the Charter of the United Nations, in which it is clearly stated that:

> "1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendations with regard to that dispute or situation unless the Security Council so requests.
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> "2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters."

(b) The Government of the Federal Republic of Yugoslavia considers that resolution 49/43 refers, in an improper and legally incorrect manner, to the situation in the United Nations Protected Areas (UNPAs) as "occupation" and to those areas as "occupied territories".

The general rule of international law, set out in article 42 of the Regulations concerning the Laws and Customs of War on Land, annexed to the Fourth Hague Convention of 1907, stipulates that: "Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised."

In the case of Krajina, a UNPA, none of the above-mentioned conditions are applicable. The territory of Krajina is not under the control of a hostile army. It is controlled by the local population and is under the protection of the United Nations Protection Force (UNPROFOR). The legal status of these areas has been determined by the Vance plan, which was accepted by Croatia as well and approved by the Security Council in its resolution 740 (1992). Pursuant to the plan, the territory of Krajina was turned into a United Nations Protected Area. UNPROFOR was deployed and undertook to protect the local population whereas the units of the Yugoslav National Army (JNA) were withdrawn.

(c) Resolution 49/43, inter alia, accuses the authorities of Krajina of ethnic cleansing, which has actually been pursued by the authorities of Croatia. Before the outbreak of hostilities in 1991, there were over 600,000 Serbs in the former Yugoslav Republic of Croatia. According to the report of the Secretary-General of 15 May 1993 (S/25777), 252,000 Serbian refugees left Croatia. Unfortunately, the exodus of Serbs still continues.

For example, in Zagreb, where until 1991 there were 60,000 Serbs, there are only 20,000 to 25,000 left. In Rijeka, where there were 21,000 Serbs, only 10,000 remained. The situation is even more drastic in Karlovac and Osijek, where from 22,000 and 34,000 Serbs only 4,000 and 6,000 respectively remained.

It is estimated that in the territories controlled by the Croatian authorities only around 100,000 Serbs remained. Until 1991 there were around 350,000 Serbs in those territories, which implies that 70 per cent of the Serbs were forced to leave Croatia.

Ever since the Croatian Democratic Community (HDZ) came to power in Croatia, and particularly following the adoption of the Constitution of the Republic of Croatia on 22 December 1990, when the Serbs were deprived of their status of constituent people, the Serbs have been exposed to large-scale terror and discrimination. They were the first to lose jobs. They were victims of eviction (particularly members of the ex-Yugoslav People's Army (JNA)), forced to formally revoke their former Yugoslav citizenship and totally discriminated against in court proceedings. By its policy and legislation Croatia practically erased Serbs from all aspects of life and turned them into second-class citizens.

In the past three years, 6,500 Serbian houses have been blown up so as to force their occupants out of Croatia. In order to survive, many Serbs had no

other choice but to change their family names. In Zagreb alone, 5,700 persons of Serb nationality did that.

The Croatian authorities harbour extreme intolerance towards the Serbian Orthodox Church, its priests and places of worship. There is but one Orthodox priest in Zagreb and only four in the whole of Croatia.

In view of the above, the one-sided approach of the international community in lending its support to Croatia on the one hand and condemning the Serb people in Krajina on the other, is unacceptable. Obviously the past and present realities have been completely ignored. It is incomprehensible that the United Nations for the most part ignores the notorious facts about the discrimination in Croatia on the grounds of national and religious affiliation exclusively towards the Serbian people.

(d) The Government of the Federal Republic of Yugoslavia rejects as totally false the allegations put forward against it in the resolution since it has strictly observed its commitments undertaken under the Vance plan as the sole legally binding international instrument for its signatories, and expects that this plan will be fully and consistently implemented.

The Federal Republic of Yugoslavia did not integrate Krajina in its legal, political and economic system. The Federal Republic of Yugoslavia is providing only humanitarian assistance to the Serb people in the face of the discrimination of the Croatian authorities.

The Government of the Federal Republic of Yugoslavia wishes to reiterate that it harbours no territorial pretensions towards any country, including the former Yugoslav republics. It fully respects the purposes and principles of the Charter of the United Nations, whose provisions have, unfortunately under political pressure, increasingly been violated, the latest example being the adoption of resolution 49/43.

The negotiations between Krajina and Croatia and their recent agreement on economic cooperation opened up the prospects for the political resolution of the crisis.

The Government of the Federal Republic of Yugoslavia, which fully supports the continuation of the negotiations between Croatia and Krajina, considers that the initiative of Croatia in the General Assembly, the deliberations on agenda item 148 and the adoption of resolution 49/43 are entirely politically unacceptable and counterproductive as they may adversely affect the ongoing peace efforts.

I should be grateful if you would have the present letter circulated as an official document of the General Assembly, under agenda item 148.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.